## REMARKS

Claims 21-29 and 33-43 are pending in the present application.

At the outset, Applicants wish to thank Examiner Nguyen for the helpful and courteous discussion with their undersigned representative on June 13, 2006. During this discussion various arguments in traverse of the outstanding rejections and data to demonstrate the differences between the art and the present invention were discussed. The content of this discussion is reflected in the following comments. Reconsideration of the outstanding rejections is requested.

The rejection of Claims 21-23, 27-31, and 33-39 under 35 U.S.C. §103(a) over Hamuro et al in view of Hegde et al and Isseroff et al is obviated in part by amendment and traversed in part.

It is the Examiner's position that Hamuro et al discloses all the limitations of the elected and claimed invention, but for a specific recitation of corneal epithelial allograft. The Examiner pointed to Example 10 of Hamuro et al as disclosing N,N'-diacylcystine inhibits delayed type hypersensitivity reaction to ovalbumin. As disclosed in Hegde et al, donor-specific delayed type hypersensitivity reactions are responsible for the relevant immune response during graft failure, including cornea rejection. As such, the Examiner alleges that the present invention would be obvious. Applicants disagree.

At the outset, Applicants note that in the context of therapeutic administration, the phrase "administering to a human in need thereof," which is analogous to the language of the present invention has been held to be properly construed to require that compound be administered to a subject with a recognized need to treat or prevent the claimed disorder.

*Jansen v. Rexall Sundown Inc.*, 342 F.3d 1329, 1332, 68 USPQ2d 1154, 1158 (Fed. Cir. 2003). Therefore, if we were to amend Claim 1 as proposed above, the subject would need to have a recognized need for suppressing rejection of a minor antigen in a corneal epithelium allograft.

However, Hamuro et al fails to disclose or suggest treating cornea epithelial allograft rejection. In fact, it is clear from the disclosure at paragraph [0048] that the many disorders are non-ocular. Further, Applicants note that Hegde et al fails to disclose or suggest cornea epithelial allograft as this reference specifically relates to *cornea rejection*, which is not the same as cornea epithelial allograft rejection. Isseroff et al is merely cited as disclosing corneal epithelial allografts and some problems associated therewith, but does nothing to compensate for the aforementioned deficiencies in Hamuro et al or Hegde et al.

At best, the disclosures of Hamuro et al, Hegde et al, and Isseroff et al provide a motivation to experiment or could be viewed as making it "obvious to try" to arrive at the present invention. However, "obvious to try" has long been held *not* to constitute obviousness. *In re O'Farrell*, 7 USPQ2d 1673, 1680-81 (Fed. Cir. 1988). A general incentive does not make obvious a particular result, nor does the existence of techniques by which those efforts can be carried out. *In re Deuel*, 34 USPQ2d 1210, 1216 (Fed. Cir. 1995).

The proper standard for determining obviousness is whether the art itself discloses or suggests all the limitations of the claimed invention. Indeed, MPEP §2142 states: "To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation... to modify the reference... Second, there must be a reasonable expectation of success. Finally, the prior art reference... must teach or suggest all the claim limitations." Applicants submit that the disclosures of Hamuro et al and Hegde et al, even if combined with Isseroff et al, fail to meet this threshold test as there is simply no

motivation to suppress a rejection to a minor antigen in corneal epithelium allograft in a subject in need thereof, by administering to the recipient an effective amount of a composition comprising a substance selected from a N, N'-diacylcystine, N, N'-diacylcystine ester, L-S, R-buthionine sulfoximine, R-buthionine sulfoximine derivative and a maleic acid diester, wherein this substance functions to decrease reduced glutathione content in at least one cell selected from macrophages, monocytes and dendric cells (see Claim 21).

In view of the present amendment, Applicants submit that the presently claimed invention is not obvious in view of the combined disclosures of Hamuro et al, Hegde et al, and Isseroff et al, because this reference fails to disclose all the limitations of the presently claimed invention. Accordingly, Applicants request withdrawal of this ground of rejection.

Accordingly, Applicants submit that the present application is now in condition for allowance. Early notification of such action is earnestly solicited.

Respectfully submitted,

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